

June 11, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES
SENATE ON PROPOSED TARIFF LEGISLATION¹

Bill no., sponsor, and sponsor's state: S. 1781 (105th Congress), Senator Bond (MO).

Companion bill: H.R. 3487 (105th Congress), Representative Talent (MO).

Title as introduced: To suspend temporarily the duty on phosphonic acid, [[(phosphonomethyl)imino]bis[2,1-ethanediylnitrilobis(methylene)]]tetrakis-, sodium salt.

Summary of bill:²

Temporarily suspends through Dec. 31, 2001 the most-favored-nation (MFN) rate of duty on imports of the chemical Phosphonic acid, [[(phosphonomethyl)imino]bis[2,1-ethane-diylnitrilobis(methylene)]]tetrakis-, sodium salt.

Effective date: The 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

The sponsor made no statement in the *Congressional Record* at the time the bill was introduced. A spokesman for the Solutia Company³ stated that there are two other U.S. suppliers of this product, one that produces domestically and the other that imports the material from a plant in the United Kingdom. "The current minimalistic duty of 3.7% does not protect the largest U.S. manufacturer, nor the company engaged in partial manufacture, where additional equitable considerations concerning duty-free import of the major component come into play."

¹ Industry analyst: Eric Land (205-3349); attorney: Leo Webb (205-2599).

² See appendix A for definitions of tariff and trade agreement terms.

³ Fax from Mr. James R. Enyart of Solutia, Inc., dated April 15, 1998.

Product description and uses:

Phosphonic acid, [[[phosphonomethyl)imino]bis[(2,1-ethanediylnitrilo)bis(methylene)]]-tetrakis-, sodium salt:

A synthetic organic chemical (CAS No. 22042-96-2) used in the paper industry.

Tariff treatment:⁴

| <u>Product</u> | <u>HTS subheading</u> | Col. 1-general <u>rate of duty</u> |
|--|-----------------------|---------------------------------------|
| Phosphonic, acid, [[[phosphonomethyl)-imino]bis-[(2,1-ethanediylnitrilo)bis-(methylene)]]tetrakis-, sodium salt..... | 2931.00.90 | 3.7% ad. val. |

Structure of domestic industry (including competing products):

Phosphonic acid, [[[phosphonomethyl)-imino]bis[(2,1-ethanediylnitrilo)bis-(methylene)]]tetrakis, sodium salt-:

There are seven firms active in the marketing of phosphonic acid compounds in the U.S. market. Of these, Solutia, and Vulcan Chemical Company manufacture in the United States. The third company, Albright & Wilson (A&W), produces a precursor material (valued at about 70 percent of the value of the final product) at its facility in the United Kingdom (UK). A&W exports the precursor to the United States, then completes the manufacture of the final product domestically. Four other firms, Nalco, Baker, Lonza, and Champion manufacture the product domestically.⁵

Private-sector views:

The Commission contacted Solutia, Inc., along with the Vulcan Chemical Company of Birmingham, AL, and Albright & Wilson Americas of Richmond, VA. Albright & Wilson Americas submitted comments on this bill, which are set out in appendix C.⁶

⁴ See appendix B for column 1-special and column 2 duty rates.

⁵ Letter from Carolyn Covey Morris, Public Affairs Manager of Albright & Wilson Americas, dated May 5, 1998.

⁶ Ibid.

U.S. consumption:

| | | | |
|---|---------------------|-------------|-------------|
| Phosphonic acid, [[(phosphonomethyl)imino]bis[2,1-ethane-diylnitrilobis(methylene)]tetrakis-: | <u>1995</u> | <u>1996</u> | <u>1997</u> |
| | -----(\$1,000)----- | | |
| U.S. production..... | (1) | (1) | (1) |
| U.S. imports ² | 1,000 | 1,000 | 1,000 |
| U.S. exports..... | 0 | 0 | 0 |
| Apparent U.S. consumption..... | (1) | (1) | (1) |

¹Not available

²Estimated by Commission staff based on information provided by Solutia, Inc.

Principal import sources: United Kingdom.

Principal export markets: None.

Effect on customs revenue:⁷

Future (1998-2000) effect:

| <u>Product</u> | Estimated average annual <u>revenue loss</u> | | |
|---|--|-------------|-------------|
| | <u>1998</u> | <u>1999</u> | <u>2000</u> |
| | -----(\$1,000)----- | | |
| Phosphonic acid, [[(phosphonomethyl)imino]bis[2,1-ethane-diylnitrilobis (methylene)]tetrakis-, sodium salt..... | 100.0 | 100.0 | 100.0 |

Retroactive effect: None.

Technical comments:

The Commission recommends that the name of the chemical be spelled as “Phosphonic acid, [[(phosphonomethyl)imino]bis-[(2,1-ethanediylnitrilo)bis-(methylene)]]tetrakis-, sodium salt.” Also, the expiration of this proposed duty suspension is December 31, 2001, while the expiration date of the companion bill is December 31, 2000.

⁷ Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period. Estimated annual revenue losses were calculated by Commission staff based on estimated import data provided by Mr. James R. Enyart of Solutia, Inc. using the appropriate staged rates of duties as published in the *Federal Register*, Wednesday, Jan. 4, 1995.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (MFN) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential or free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994

by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 8/12/97

APPENDIX B

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

(Appendix not included in the electronic version of this report.)

APPENDIX C

OTHER ATTACHMENTS

(Appendix not included in the electronic version of this report.)

105TH CONGRESS
2D SESSION

S. 1781

To suspend temporarily the duty on phosphonic acid, [[(phosphonomethyl)imino]bis[2,1-ethanediylnitrilobis-(methylene)]]tetrakis-, sodium salt.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 1998

Mr. BOND introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To suspend temporarily the duty on phosphonic acid, [[(phosphonomethyl)imino]bis[2,1-ethanediylnitrilobis-(methylene)]]tetrakis-, sodium salt.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PHOSPHONIC ACID, [[(PHOSPHONO-**
4 **METHYL)IMINO]BIS[2,1-ETHANEDIYL-**
5 **NITRILOBIS(METHYLENE)]]TETRAKIS-, SO-**
6 **DIUM SALT.**

7 (a) IN GENERAL.—Subchapter II of chapter 99 of
8 the Harmonized Tariff Schedule of the United States is

1 amended by inserting in numerical sequence the following
 2 new heading:

| | | | | | | | |
|---|------------|---|------|-----------|-----------|----------------------------|----|
| “ | 9902.31.12 | Phosphonic acid, [[[(phosphonomet- hyl)- imino]bis[2,1- ethanediylnitri- lobis(methyl- ene)]]tetrakis-, sodium salt (CAS No. 22042-96-2) (provided for in subheading 2931.00.90) | Free | No change | No change | On or before 12/31/2001 | ”. |
|---|------------|---|------|-----------|-----------|----------------------------|----|

3 (b) EFFECTIVE DATE.—The amendment made by
 4 subsection (a) applies with respect to articles entered, or
 5 withdrawn from warehouse for consumption, on or after
 6 the 15th day after the date of enactment of this Act.

○